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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,708	10/30/2003	Cyril Brignone	100203274-1	1932

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EXAMINER	
CHOUDHURY, AZIZUL Q	
ART UNIT	PAPER NUMBER
2445	

NOTIFICATION DATE	DELIVERY MODE
05/29/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/698,708	BRIGNONE ET AL.	
	Examiner	Art Unit	
	AZIZUL CHOUDHURY	2445	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 February 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Detailed Action

This office action is in response to the correspondence received on February 18, 2009.

Response to Amendment

Applicant's last received arguments are deemed persuasive and therefore, the finality of the last action is withdrawn.

Claim Rejections - 35 USC § 101

Claims 1-9 and 22-26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-9 and 22-26 are rejected because the claim language describes a data structure that simply contains data and hence is not functional. A data structure is statutory only when it is functional. For example if the data structure were to increase efficiency, then that data structure would be statutory. MPEP 2106.01 clearly states:

> *Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.*

For these reasons, the claimed data structures of claims 1-9 and 22-26 are not deemed statutory and continue to remain rejected.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tahtinen et al (US PGPUB No: US 2001/0046228 A1) in view of Jessup et al (US Patent No: US 7,330,883), hereafter referred to as Tahtinen and Jessup, respectively.

1. With regards to claim 1, Tahtinen teaches through Jessup, a data structure disposed in a computer readable memory for providing information corresponding to a geographic location, said data structure comprising: a first data field for identifying said location (equivalent to coordinate information,

paragraph 4, Tahtinen); and a second data field associated with said first data field for containing said information, wherein a user can access said information (equivalent to subscriber number, paragraph 4, Tahtinen).

While Tahtinen teaches a data structure with a data field for identifying a location (coordinate) through a mobile phone, Tahtinen does not explicitly cite that a coordinate identifies a geographic location. In the same field of endeavor, Jessup also teaches a mobile phone with location identification. Within Jessup's disclosure, it is taught how coordinates in fact indicate (identify) a geographic location; see at least claim 5, Jessup. The identification of a geographical location through coordinates is useful when the geographical location information is used by electronics such as a mobile phone. Electronics benefit from standardized data formats and the use of coordinates as the geographical location information provides such a standard. Therefore it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Tahtinen with those of Jessup, to provide geographical location identification through coordinates to carry out location-based services for the user; see column 2, lines 35-46, Jessup.

2. With regards to claim 2, Tahtinen teaches through Jessup, the data structure wherein said information is selectively provided to a client device on a network based on context relating to a user of said client device, wherein said context is subject to filtering and wherein said filtering functions to deter locating said user

(If no phone number is placed within the data structure, it is inherent that a user will not obtain the information within the data structure as claimed (paragraph 21, Tahtinen).

3. With regards to claims 3, 11 and 17, Tahtinen teaches through Jessup, the data structure wherein said context changes dynamically in response to a condition relating to the temporal pertinence of said information with respect to said contextual information and wherein the receivability of said data structure to said client device is activated or deactivated in response to said condition (If the user is not logged into the service, the information is not attainable (paragraph 4, Tahtinen)).

4. With regards to claims 4, 12 and 18, Tahtinen teaches through Jessup, the data structure wherein said condition comprises a quality selected from the group consisting essentially of time and a locational aspect of said client device (paragraph 4, Tahtinen).

5. With regards to claims 5, 13 and 19, Tahtinen teaches through Jessup, the data structure wherein said locational aspect comprises a state selected from the group consisting essentially of directional orientation, tilt orientation, residing within a specified area of coverage, motion through said specified area of

coverage, and accessibility of said location to a position of said client device (paragraph 12, Tahtinen).

6. With regards to claims 6 and 20, Tahtinen teaches through Jessup, the data structure wherein said condition comprises a sequence of events occurring and wherein said area of coverage changes dynamically in response to said sequence of events (paragraph 12, Tahtinen).

7. With regards to claims 7 and 21, Tahtinen teaches through Jessup, the data structure wherein said context comprises an attribute of said user, said attribute selected from the group consisting essentially of identity, profile, history, a preference, a credential, capability, an interest, and a privacy selection (paragraph 4, Tahtinen).

8. With regards to claim 8, Tahtinen teaches through Jessup, the data structure wherein said client device comprises a portable computing device and wherein said context is stored on said portable computing device (equivalent to mobile phone, paragraph 21, Tahtinen).

9. With regards to claims 9 and 23, Tahtinen teaches through Jessup, the data structure wherein said first data structure comprises a latitude and a longitude wherein said second data field is selected from the group consisting essentially

of a uniform resource locator and a telephone number (The data structure can maintain coordinates and URL and telephone numbers (paragraphs 4 and 12, Tahtinen)).

10. With regards to claim 10, Tahtinen teaches through Jessup, a network based system for selectively providing a data structure to a client device, said data structure having a first data field for identifying a location and a second data field associated with said first data field containing information corresponding to said location (paragraph 4, Tahtinen), comprising: a filter coupled to said network for accessing context stored at said client device and on the basis of said context determining that said data structure is pertinent to a user of said client device and wherein said filter functions to deter locating said user (Inherent since data structure is accessible to client within Tahtinen's design (paragraph 4, Tahtinen)); a server coupled to said network for selectively furnishing said data structure to said client device on the basis of said determining (element 8, Figure 1, Tahtinen); and a database coupled to said server for storing a plurality of said data structures and providing said data structure to said server (element 4, Figure 1, Tahtinen).

While Tahtinen teaches a data structure with a data field for identifying a location (coordinate) through a mobile phone, Tahtinen does not explicitly cite that a coordinate identifies a geographic location. In the same field of endeavor, Jessup also teaches a mobile phone with location identification. Within Jessup's

disclosure, it is taught how coordinates in fact indicate (identify) a geographic location; see at least claim 5, Jessup. The identification of a geographical location through coordinates is useful when the geographical location information is used by electronics such as a mobile phone. Electronics benefit from standardized data formats and the use of coordinates as the geographical location information provides such a standard. Therefore it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Tahtinen with those of Jessup, to provide geographical location identification through coordinates to carry out location-based services for the user; see column 2, lines 35-46, Jessup.

11. With regards to claim 16, Tahtinen teaches through Jessup, a network based method for selectively providing a data structure, said data structure having a first data field for identifying a location and a second data field associated with said first data field containing information corresponding to said location, to a client device (paragraph 4, Tahtinen), said method comprising: in response to a request from said client device, seeking context that characterizes a user of said client device (paragraph 4, Tahtinen); in response to said seeking, filtering said context to deter locating said user (paragraph 21, Tahtinen); upon said filtering, determining from said context that said data structure is pertinent to said user, and in response to said determining, sending said data structure to said client device (paragraph 4 and 12, Tahtinen).

While Tahtinen teaches a data structure with a data field for identifying a location (coordinate) through a mobile phone, Tahtinen does not explicitly cite that a coordinate identifies a geographic location. In the same field of endeavor, Jessup also teaches a mobile phone with location identification. Within Jessup's disclosure, it is taught how coordinates in fact indicate (identify) a geographic location; see at least claim 5, Jessup. The identification of a geographical location through coordinates is useful when the geographical location information is used by electronics such as a mobile phone. Electronics benefit from standardized data formats and the use of coordinates as the geographical location information provides such a standard. Therefore it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Tahtinen with those of Jessup, to provide geographical location identification through coordinates to carry out location-based services for the user; see column 2, lines 35-46, Jessup.

12. With regards to claim 22, Tahtinen teaches through Jessup, a data structure disposed in a computer readable memory for providing information corresponding to a geographic location, said data structure comprising: a first data field for identifying said location with respect to a three dimensional reference system, wherein said three dimensional reference system is based selectively on an absolute reference and a relative reference (equivalent to coordinate information, paragraph 4, Tahtinen); and a second data field

associated with said first data field for containing said information, wherein a user can access said information (equivalent to subscriber number, paragraph 4, Tahtinen).

While Tahtinen teaches a data structure with a data field for identifying a location (coordinate) through a mobile phone, Tahtinen does not explicitly cite that a coordinate identifies a geographic location. In the same field of endeavor, Jessup also teaches a mobile phone with location identification. Within Jessup's disclosure, it is taught how coordinates in fact indicate (identify) a geographic location; see at least claim 5, Jessup. The identification of a geographical location through coordinates is useful when the geographical location information is used by electronics such as a mobile phone. Electronics benefit from standardized data formats and the use of coordinates as the geographical location information provides such a standard. Therefore it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Tahtinen with those of Jessup, to provide geographical location identification through coordinates to carry out location-based services for the user; see column 2, lines 35-46, Jessup.

13. With regards to claim 24, Tahtinen teaches through Jessup, the data structure wherein said first data structure comprises a plurality of fields wherein said fields identify said geographic location, wherein said absolute reference comprises a plurality of coordinate systems, and wherein each field of said plurality of fields is

defined in a separate coordinate system of said plurality of coordinate systems (paragraphs 4 and 12, Tahtinen).

14. With regards to claim 25, Tahtinen teaches through Jessup, the data structure wherein said first data structure comprises a plurality of fields wherein said fields identify said geographic location, wherein said relative reference comprises a plurality of coordinate systems, and wherein each field of said plurality of fields is defined in a separate coordinate system of said plurality of coordinate systems (paragraphs 4 and 12, Tahtinen).

15. With regards to claim 26, Tahtinen teaches through Jessup, the data structure wherein said first data structure comprises a plurality of fields wherein said fields identify said geographic location, wherein each field of said plurality of fields is defined in a separate coordinate system of said plurality of coordinate systems, and wherein a first field of said plurality of fields is defined based on said absolute reference and a second field of said plurality of fields is defined based on said relative reference (paragraphs 4 and 12, Tahtinen).

16. The obviousness motivation applied to claims 1, 10, 16 and 22 are applicable towards their respective dependent claims.

Response to Arguments

Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection. The following are the examiner's explanations with respect to the previously issued 101 rejections.

Despite the applicant's arguments the 101-type rejection continues to stand because the claims are directed towards a non-functional data structure. The applicant contends that the claims teach data manipulation functions and hence serves a function and is statutory. The examiner disagrees. For instance, claim 1 reads "wherein a user can access said information." No actual steps are performed on the data to manipulate the data. In fact, the term "can" merely implies that the data is available; it need not even be accessed by a user. The mere accessibility of data (which is essentially claimed) is not a manipulation of data. As an example, the filtering/parsing of data is a manipulation of data. Therefore, the examiner disagrees with this argument and maintains the 101 rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AZIZUL CHOUDHURY whose telephone number is (571)272-3909. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. C./
Examiner, Art Unit 2445\

/VIVEK SRIVASTAVA/
Supervisory Patent Examiner, Art Unit 2445